

# **Bond Case Briefs**

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## **ATTORNEYS' FEES - CALIFORNIA**

### **Kennedy Commission v. City of Huntington Beach**

**Court of Appeal, Fourth District, Division 2, California - May 11, 2023 - Cal.Rptr.3d - 2023 WL 3372378**

Objector filed petition for alternative writ of mandate and complaint for declaratory and injunctive relief against city and city council, alleging that amended housing plan was inconsistent with city's housing element, which identified sufficient sites to accommodate city's regional housing needs allocation (RHNA) of low-income housing.

Action was transferred from the Superior Court, Orange County. The Superior Court, Los Angeles County granted petition for writ of mandate and, later, the Superior Court awarded attorney fees to objector. City and city council appealed each decision. The Court of Appeal reversed, granting of petition for writ of mandate and reversed attorney fees award. On remand, objector filed first amended petition for writ of mandate and declaratory relief. After parties stipulated to dismissal of first amended petition, objector filed motion for attorney fees. The Superior Court granted attorney fees in amount of \$3,531,201.10. City and city council appealed.

The Court of Appeal held that:

- Objector satisfied causation element to recover attorney fees under catalyst theory pursuant to statute allowing award of fees in action resulting in enforcement of important right affecting public interest;
- Action was not frivolous, as supported award of attorney fees;
- Trial court acted within its discretion in finding that objector reasonably attempted to settle its case before suing;
- Objector satisfied prong requiring enforcement of important right;
- Action conferred a significant benefit on public;
- Sufficient evidence supported trial court's finding that 4,165.7 hours spent litigating case was reasonable; and
- Trial court acted within its discretion when it applied multiplier of 1.4 to lodestar amount.

Objector's persistence in requiring city to meet city's regional housing needs allocation (RHNA) of low-income housing was substantial factor in city's adoption of second housing element, which complied with RHNA, and thus objector satisfied causation element to recover attorney fees under catalyst theory pursuant to statute allowing award of fees in action resulting in enforcement of important right affecting public interest, in action seeking writ of mandate and declaratory relief regarding amended housing plan; objector's litigation caused Legislature to change law to require consistency by charter cities and prompted Department of Housing and Community Development (HCD) to file suit against city, and objector achieved its primary objective of city complying with RHNA.